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Human rights bodies and mechanisms

Panel discussion on the contribution of parliaments to the work of the Human Rights Council and its universal periodic review

Summary report of the United Nations High Commissioner for Human Rights*

Executive summary

The present report is submitted pursuant to Human Rights Council resolution 30/14, in which the Council decided to convene, at its thirty-second session, on the occasion of the tenth anniversary of the Council, a panel discussion that would take stock of the contribution of parliaments to the work of the Council and its universal periodic review and identify ways to enhance further that contribution. The panel discussion was held on 22 June 2016. It brought together parliamentarians from Ecuador, Morocco and the Philippines, a representative of the Inter-Parliamentary Union (IPU), the legal adviser to the Joint Committee on Human Rights of the Parliament of the United Kingdom of Great Britain and Northern Ireland and was moderated by the Permanent Representative of Maldives. The panel was opened by the Director of the Human Rights Council and Treaty Mechanisms Division and the Secretary-General of the Inter-Parliamentary Union. In the course of the panel discussion, many speakers reaffirmed the importance of parliamentary involvement in the work of the Council and its universal periodic review in order to promote human rights. Specific examples of parliamentary action in contributing to ensure the respect by States of their international human rights commitments were provided by participants in the discussion, at the end of which a series of recommendations was put forward, including:

(a) The need for parliamentarians to mainstream human rights international norms in their national legislation;

(b) The need for parliamentarians to identify adequate resources and expertise to

* The present document was submitted after the deadline in order to reflect the most recent developments.

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enable them to become involved in the international human rights arena;

(c) The implementation of the Belgrade Principles on the relationship between national human rights institutions and parliaments, and the important role to be played by civil society in support of parliaments in order to ensure the compliance of national legislation with international human rights norms and standards;

(d) While parliamentarians should be more proactive in their engagement in the work of the universal periodic review and other human rights mechanisms, the Council should also take into account where possible the work of parliaments in its deliberations and ensure their protection in the discharge of their mandate;

(e) The need for parliamentarians to actively participate in national mechanisms for reporting and follow-up and resulting national human rights action plans and to contribute to the implementation of recommendations for which legislative action is required;

(f) The need for parliamentarians to engage more proactively and systematically in the work of human rights mechanisms through a set of principles and guidelines;

(g) The need for parliaments, especially existing parliamentary human rights committees, to oversee human rights policies and actions by Governments, especially the implementation of recommendations resulting from the international human rights mechanisms.

I. Introduction

1. The present report is submitted pursuant to with Human Rights Council resolution 30/14, in which the Council decided to convene, at its thirty-second session, on the occasion of the tenth anniversary of the Council, a panel discussion that would take stock of the contribution of parliaments to the work of the Council and its universal periodic review and identify ways to further enhance that contribution The panel discussion was held on 22 June 2016. It brought together parliamentarians from Ecuador, Morocco and the Philippines, a representative of IPU and was moderated by the Permanent Representative of Maldives.

II. Opening statements

2. The Director of the Human Rights Council and Treaty Mechanism Division noted the growing international consensus about the importance of the role of parliaments in the promotion and protection of human rights. As such, the Council was exploring ways to improve the contribution of parliaments to its work and that of its universal periodic review. He stated that parliaments, as legislators and as overseers, played a crucial role for human rights and that 60-70 per cent of the recommendations made as part of the universal periodic review required or involved parliamentary actions. However, he regretted that the first and second review cycles had failed to ensure significant parliamentary participation. In response, The Office of the United Nations High Commissioner for Human Rights (OHCHR) had already held a panel discussion on the topic and had collaborated with IPU on four regional seminars. In conclusion, he encouraged parliaments that do not have specialized human rights committees to establish them.

3. The Secretary-General of the Inter-Parliamentary Union highlighted the work of IPU, which covers 170 parliaments over the world. He particularly emphasized the role played by its standing committee dedicated to human rights, which helped parliaments to gain a better understanding of human rights and their role in the implementation of human rights norms and standards, and the committee that addresses human rights violations affecting parliamentarians. He expressed his wish for the Human Rights Council to strengthen its engagement with parliaments. The regional seminars organized by IPU and OHCHR on the universal periodic review raised the awareness of parliaments of the mechanism and process and helped to encourage the participation of parliamentarians in the different steps of the process. Indeed, parliaments could fulfil a role at each stage of the review, such as being informed of reports, holding debates on the topics and sending parliamentarians as part of their countries' delegations. In conclusion, the Secretary-General made three recommendations: (a) he called upon the permanent representatives based in Geneva to play a critical role in helping to ensure that their own capitals start integrating parliaments more systematically into the review process; (b) that the universal periodic review — and special procedure mandate holders — follow the example of the Committee on the Elimination of Discrimination against Women, by systematically including in its reports a paragraph that highlights the need for parliamentary engagement; (c) that the Council ensure that the work of parliament is more systematically taken into account.

III. Presentations by the panellists

Moderator, Hala Hameed

4. Hala Hameed, the Permanent Representative of Maldives, highlighted the human rights protection role of diplomats, legislators and leaders and regretted the fact that they would sometimes tend to protect the legislation and the narrow letter of the law instead of the spirit of human rights and the rule of law. True justice could be achieved only through the application of international norms and standards. She recalled that the purpose of the

panel discussion was to enhance the contribution of parliaments to the universal periodic review, which was taking place against the backdrop of the first panel on this topic, held in May 2013, and the four subsequent seminars held by OHCHR and IPU.

5. Alexandra Ocles Padilla, Member of the National Assembly of Ecuador and President of the parliamentary group for the rights of peoples and nationalities, highlighted the number of challenges for promoting and protecting human rights. Because there is a broad range of actors in the legislating process, Ms. Ocles Padilla wondered what was the exact role of parliaments in complying with human right mechanisms and instruments.

6. She emphasized that many countries have submitted annual resolutions, pursuant to the considerations that parliaments: (a) comply with and carry out in implementing recommendations and commitments to international human rights; and (b) approve budgets for public expenditure, as human rights improvements require funding.

7. Thus, Ms. Ocles Padilla welcomed initiatives such as the panel, which play an important role in achieving the Sustainable Development Goals.

8. Ms. Ocles Padilla highlighted the work of the Ecuadorian authorities, which cooperate with the Human Rights Council by considering its various reports, working with its mechanisms and sending their feedback to the Council. In that regard, she indicated that, at her level, she had reported on some action on human rights in Ecuador. She emphasized four of the main provisions of the Ecuadorian Constitution in relation to: (a) the full rights and protection of vulnerable people who live in the territory; (b) the guarantee of the rights established in the constitution and in international instruments; (c) the concept of "the good way of living"; and (d) the commitment to the international system of human rights and other treaties and international norms and standards.

9. Ms. Ocles Padilla provided a few examples of the human rights-based initiatives of the Ecuadorian Parliament. She referred to its support for giving a pension to domestic workers as a groundbreaking measure. In the same vein, in December 2015, Parliament approved the Law on the Management of Identity and Civilian Data, which guaranteed the right to identity changes and would protect transgender persons from having to disclose their gender of origin when they voted.

10. Hakim Benchamach, President of the Chambre de Conseillers of Morocco and Member of the Superior Council of Education and Vocational Training, shared his experience as a victim of violence in Morocco, having had his human rights violated when he was detained and tortured. On the basis of his personal experience, he pled in favour of parliamentary participation in the Council. In doing so, he shared some of the parliamentary actions of Morocco in promoting human rights and complying with recommendations emanating from the universal periodic review. In that regard, he welcomed the adoption of the 2011 Moroccan Constitution, which was now in line with international human rights standards, and the establishment of the various monitoring bodies responsible for checking the compatibility of national laws with human rights norms. He indicated that the Constitution stated in its preamble that the compatibility of national legislation with international law was vital and had introduced specific human rights principles. In addition, legislators were requested to consult with national human rights organizations to make sure their draft laws were in line with human rights norms and standards. This was also the illustration of the important role of civil society organizations, in particular the national human rights council.

11. Mr. Benchamach put forward a number of recommendations for national parliaments. First, he recommended an institutionalization of national parliamentary participation in the universal periodic review, so that parliaments would be obliged to submit alternative reports. Second, he recommended that legislative bodies be strengthened so they can actually adopt human rights policies. Third, he recommended that the Belgrade Principles be reflected in the work of parliaments. Fourth, he recommended that a streamlined methodology be adopted for the drafting of parliamentary documents, upholding the principles of IPU.

12. Neri Colmenares, Senior Deputy Minority Leader of the Philippines House of Representatives, was asked to report on behalf of the Senate President, Aquilino Pimentel

III, on the results of the seminar held in Manila on 26 and 27 February 2015, co-organized by IPU and OHCHR, which was attended by 148 participants, of whom 95 were parliamentarians. He noted that migrants and migrants' rights, the environment and environmental rights, armed conflicts within and between States, terrorism, inequality in development between and within States, gender inequality and minorities and indigenous people rights were among the thematic regional and common challenges identified during the seminar.

13. He indicated that the seminar had adopted a number of recommendations, including:

(a) That more capacity-building be given to members of national parliaments and local legislative councils;

(b) That there be further awareness-raising, both for parliaments and the general public, on the knowledge and understanding of human rights;

(c) That a parliamentary standing committee or functional committee be created in several parliaments as mechanisms to promote the universal periodic review, and to participate in drafting the national reports and follow-up to legislative inquiries on the updates of the implementations;

(d) That the recommendations made as part of the universal periodic review be sent to the parliamentarian themselves;

(e) That human rights be treated as a cross-cutting consideration on policy formulation and law-making, which means human rights will be a primary consideration in legislative actions;

(f) That parliaments in the region be linked and best practices shared in addressing human rights violations and related issues. Mr Colmenares added that IPU has been facilitating this initiative, but there remains a need for States in the region to share bilaterally. He also added that parliamentarians must be protected themselves in order for them to protect other people's human rights;

(g) That inclusive engagement with stakeholders be encouraged through dialogue and consultation;

(h) That human rights education continue, and public information campaigns conducted on the laws dealing with human rights;

(i) That national and regional human rights institutions and mechanisms be created that are independent and have effective human rights promotions and protection mandates;

(j) That parliamentary committees be established to oversee the implementation of international treaties and conventions on human rights.

14. In conclusion, Mr. Colmenares indicated that, as representatives of the people, parliaments and parliamentarians had an important role to play when the rights of people were violated. He was of the view that the institutionalization of international human rights norms in national legislation was probably the best response of parliaments.

15. Kareen Jabre, Director of the Division of Programmes at IPU, provided information on the engagement of IPU with the Committee on the Elimination of Discrimination against Women as part of the long-standing commitment of IPU to promoting gender equality. She recalled that IPU had engaged parliaments on the Committee 15 years ago by carrying out a survey, which had showed that parliaments had a poor knowledge of the Convention on the Elimination of All Forms of Discrimination against Women and did not fully comprehend their commitments to that instrument. This then triggered two objectives: to enhance the involvement of parliaments with the Committee and to enhance the Committee's engagement with parliaments. In order to advance the first objective, IPU raised awareness of the Convention itself, organized global and regional meetings, developed tools, identified best practices, supported parliaments to dialogue and implemented and followed up on implementations. Parliaments became more and more aware of their role in translating into national legislation the provisions of the Convention. Indeed, parliaments can ratify the Convention, remove reservations, adopt national laws in accordance with the

provisions of the Convention, allow sufficient budget to implement the provisions of the Convention and raise awareness about the Convention. With regard to the second objective, IPU briefed parliaments on the ways to report and provide information to the Committee and informed the Committee about the level of participation by parliaments. The success of the collaboration was partly due to the initiative of the Committee to include a standard paragraph in its concluding observations requesting parliaments to comment and indicate measures taken to implement the recommendations.

16. Ms. Jabre provided a few examples of the successful involvement of parliaments in the work of the Committee. First, parliamentarian exposure to the Committee had resulted in changes in law-making prerogatives, as was the case in Burkina Faso, Jordan and Maldives. Second, greater parliamentary involvement allowed countries to align their action to the priorities of the Committee, as was the case in Mauritania and Turkey. Third, further involvement had allowed for greater debate, such as the case in Namibia. Fourth, greater participation had allowed the Convention to be mainstreamed, as was the case in Uganda.

17. Finally, Ms. Jabre stated that she was of the view that more work was necessary to ensure a systematic and cross-cutting inclusion of the Committee and human rights in the work of parliaments. That is, human rights should not only be included in the work of specialized bodies but should also be mainstreamed into the overall legislative work. She then recommended that other Human Rights Council initiatives acknowledge the role of parliaments and permanent missions in conveying to their capitals the importance of parliaments.

18. Murray Hunt, legal adviser to the Joint Committee on Human Rights of the United Kingdom Parliament and visiting professor in human rights law at the University of Oxford, made comments in his capacity as the leader of a research project at the University of Oxford. In that regard, he indicated that the purpose of his research project was to survey the ways in which parliaments had a role in relation to the rule of law and human rights. The research had established that the world was turning to parliaments to promote and protect human rights and strengthen the rule of law, i.e., there was a global consensus that the protection of the rule of law and human rights could not simply be left to the courts, lawyers and legal remedies, but that parliaments had a shared responsibility.

19. The reason for the consensus was twofold. First, people were looking for effectiveness, since parliaments were uniquely positioned to close the implementation gap, prevent violations of human rights and implement recommendations on fixing and preventing further human rights violations. Second, people were looking for legitimacy, since elected officials wanted to participate in the rule of law and human rights and not leave it solely to courts and lawyers.

20. His activities and research have allowed him to observe that there has been renewed emphasis on the inclusion of parliaments by States in fulfilling their primary responsibility of protecting human rights. He therefore wondered how to bring about a radical change in the role of parliaments and made the following proposals in that regard:

(a) Ensure the proactive expertise of parliaments, so that experts can mediate between international norms and standards and national legislation and explain how national parliaments can engage in that work;

(b) Establish a formal network for information exchange, dialogue and coordination. He was of a view that a properly resourced, formal network of relevant parliamentarians, lawyers and researchers would help facilitate the exchange of relevant information and provide a forum for sharing best practices;

(c) Ensure the Human Rights Council takes proactive steps by creating a new mandate for a special rapporteur to increase parliamentary involvement and mainstreaming and by involving key parliamentarians in its proceedings.

21. Finally, Mr. Hunt stated that he was of view that a set of global principles and guidelines could provide an overarching narrative and coherence to what was currently an array of disparate practices across the world, and provide a common framework for capacity-building.

IV. Summary of statements from members and observers

22. Many speakers echoed the sentiment that parliamentary involvement in the work of the Council and its universal periodic review was important in order to promote human rights.

23. In that regard, Egypt, Sierra Leone, India, the European Union, the African Group and Pakistan on behalf of the Organization of Islamic Cooperation were in agreement and highlighted the role that parliaments play in promoting and protecting human rights by enacting legal norms and constitutional frameworks. They also pointed out that parliaments cooperated at the national level with civil society and other State actors in promoting a better synergy between human rights commitments and their national implementation. In addition, they underlined the role parliaments have in approving budgets and providing funding for the implementation of accepted recommendations. Some also emphasized the oversight role of parliaments to ensure that implementation is carried out. Several countries then asked the panellists, and more specifically IPU, how to achieve a strengthened engagement of parliament in the work of the human rights council.

24. Several countries pointed out the issue of "illegitimate governments". The European Union inquired how to engage parliaments when the rule of law and electoral laws were at risk. Nigeria stated that parliaments should build independent structures to carry out the human rights directives, especially in situations where "governments may not be making good laws or their representatives may not defend peoples' rights against excesses of autocratic governments".

25. In the course of the discussion, a few countries shared their national experience.

26. Spain on behalf of Ecuador, Italy, Maldives, Morocco, the Philippines and Romania presented an initiative to increase awareness and knowledge among the Council and its work and the parliament, in order to explore synergies and advance cooperation bilaterally or through IPU.

27. Australia, Canada and New Zealand highlighted some good practices from their jurisdictions. Australia had set up a committee that reviews bills to ensure their compatibility with human rights norms. A similar structure existed in Canada, whereas the same compatibility consideration fell within the purview of the Attorney General in New Zealand. Australia also included parliamentarians in its delegation to the Working Group on the Universal Periodic Review.

28. Paraguay highlighted the cooperation between parliaments and the national human rights network, and the way in which the national system of monitoring makes sure the recommendations are mainstreamed to support their work.

29. Georgia reported that its Human Rights and Civil Integration Committee had initiated amendments to the Parliamentary Regulation, strengthening the consultation process for the preparation of the national report and voluntary midterm report.

30. Slovenia highlighted its well-established cooperation between the Government and the National Assembly in the universal periodic review process.

31. Three non-governmental organizations (NGOs) also made interventions. The Arab Commission for Human Rights urged States to expand and strengthen the involvement of parliaments in all of the Human Rights Council activities, to include all human rights processes, not only the universal periodic review. Rencontre Africaine pour la Défense des Droits de l'Homme agreed that parliamentary involvement was important for the review process and encouraged the Council to promote best practices. The Korea Center for United Nations Human Rights Policy recommended member States to establish permanent bodies within parliaments to ensure the implementation of international human rights standards.

V. Comments from the panellists

32. Before giving the floor to the panellists for additional comments and views, Ms. Hameed noted the general agreement towards strengthened engagement of parliaments in

the implementation of human rights norms and standards and the need for harmonization of national laws with international norms. In that regard, the proposal for guidelines and principles put forward by Mr. Hunt would benefit from specific indication as to how this would affect States and the way to strike the balance between national sovereignty and legislative application of human rights.

33. Mr. Hunt acknowledged the fact that the balance between national sovereignty and legislative application was a sensitive matter. However, he noted that, in view of the fact that the primary obligation of States was to implement the human rights standards they had committed to through the ratification process, it was possible to transfer the responsibility of implementation of recommendations from United Nations human rights mechanisms from the international sphere to the national parliaments. He confirmed that the adoption of a set of human rights principles and guidelines was still at an early stage and that countries should go through the process themselves and adopt the most appropriate format for themselves. The principles and guidelines would emanate from successful national experiences.

34. Mr. Benchamach noted that the role of parliaments in the promotion of human rights needed no further evidence, although the extent to which such a role was played was dependent of national contingencies and national culture. According to him, OHCHR and IPU were best placed to help strengthen that role by building the capacity of parliaments and ensuring a space for parliamentary involvement at the international level.

35. He suggested that there be a United Nations analysis on the level of implementation by States of the Belgrade Principles. On the basis of the positive experience of Morocco, he also suggested that parliaments be trained and assisted in mainstreaming human rights into the internal rules and procedures.

36. Ms. Ocles Padilla stated that training for parliamentarians would result in greater engagement, as demonstrated in Ecuador. The positive impact of effective monitoring and information technology platforms supporting human rights was highlighted. She stated that technological platforms were useful for the legislator and the executive office to provide clear follow up to the implementation of human rights laws.

37. Mr. Colmenares encouraged OHCHR and IPU to organize intergovernmental dialogues to share best practices on the involvement of parliaments in human rights. In that regard, he recommended that the proposal be considered for the Council to establish a special rapporteur focusing on parliamentary involvement. He encouraged the involvement of parliaments in States' human rights reporting and monitoring. Indeed, he indicated that the monitoring by parliament of the implementation of States' human rights commitments could overcome potential institutional complications, such as a hardly accessible judicial system. According to him, Congressional inquiries, especially during the budgetary allocation period, could be an important step to monitor the actions by the executive branch. The institutionalization of human rights did not involve only the mere knowledge of human rights, but also the understanding of the implications of the rights and the consequences of their violations.

38. Ms. Jabre indicated that an effective engagement of parliaments in the work of human rights mechanisms would entail that such a space for engagement be created. The engagement should also be systematic and constant. In addition, she made an appeal to permanent missions in Geneva to take more systematically and constantly these messages of engagement back to their parliaments, in order to build on the momentum.

39. She acknowledged that such a systematic and constant engagement should emanate from parliaments themselves. Institutionalization was a good idea, either by building a separate body focusing on engagement, or developing methodologies and procedures that require parliaments to systematically and constantly engage on human rights matters.

40. In conclusion, Ms. Jabre informed the Council about the research carried out jointly by IPU and the Geneva Graduate Institute on the level of implementation of the Belgrade Principles worldwide.

VI. Summary of statements from members and observers

41. Most of the States that took the floor for the second round of comments shared their national experience and practices.

42. Pakistan indicated that both houses of Parliament had established human rights standing committees in addition to its Women Parliamentary Caucus, the main function of which was the promotion of women's rights. On the same issue, Italy provided information on its human rights monitoring mechanism, which was also tasked to ensure follow-up and reporting.

43. South Africa gave information about the participation of parliamentarians in its universal periodic review delegation, while Algeria indicated the direct involvement of parliamentarians in the drafting of the national report. Namibia highlighted its cooperation with IPU and the holding of a workshop for parliamentarians in the country, and Algeria confirmed the holding of a series of human rights seminars and study days for its parliamentarians.

44. The Republic of Korea welcomed the ratification of the Palermo Protocols by its National Assembly, in accordance with the recommendations made as part of the universal periodic review.

45. China, the Islamic Republic of Iran, Libya, Maldives, Namibia, the Sudan and Tunisia further echoed the importance of parliamentary involvement in human rights implementations. In that regard, Libya and Maldives then highlighted the importance of capacity-building, while Libya specifically asked for more technical support, namely, to create a national reconciliation commission, find solutions for displaced persons and refugees and promote the role of women, people with disabilities and minorities.

46. Representatives of three NGOs spoke. Espace Afrique explained that parliamentary involvement gave more legitimacy to human rights norms. It therefore encouraged the Human Rights Council to pursue greater parliamentary involvements and invest in capacity-building of the legislative branch.

47. Sudwind Entwichlungspolitik noted that submitting country reports was not effective without the establishment of human rights policies and legislations that prohibit human rights violations.

48. The Khiam Rehabilitation Center for the Victims of Torture noted that the pre-condition for parliamentarians to perform their oversight and human rights promotion and protection role was to be protected from abuses and for their independence to be guaranteed and protected.

VII. Concluding remarks

49. The concluding remarks made by the panellists included the following:

(a) The need for parliamentarians to mainstream human rights international norms in their national legislation;

(b) The need for parliamentarians to identify adequate resources and expertise to be involved in the international human rights arena;

(c) The implementation of the Belgrade Principles and the important role to be played by civil society in support of parliaments to ensure compliance of national legislation with international human rights norms and standards;

(d) The fact that, while parliamentarians should be more proactive in their engagement in the work of the universal periodic review and other human rights mechanisms, the Council should ensure their protection in the discharge of their mandate;

(e) The need for parliamentarians to participate actively in national mechanisms for reporting and follow-up and resulting national human rights action plans, and to

contribute to the implementation of recommendations for which legislative action is required;

(f) The need for more proactive engagement of parliamentarians in the work of human rights mechanisms through the development of a set of principles and guidelines;

(g) The need for parliaments — especially existing human rights committees — to oversee human rights policies and actions by Governments — especially the implementation of recommendations resulting from international human rights mechanisms.